

REMARKS

In view of the above amendment, applicant believes the pending application is in condition for allowance.

The Abstract has been corrected as required by the Examiner. Also, the informalities mentioned in paragraph 3 of the Office Action have been corrected.

Claims 45-49 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards are the invention. The necessary changes to avoid double inclusion have been made so that further rejection on the basis of section 112 is not anticipated.

Claims 36-40 and 42-44 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pool (4,240,568) in view of Kelsey (5,269,438). Claims 41 and 49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pool in view of Kelsey, and further in view of Giarrante (5,893,489).

Prior to a discussion of the prior art rejection the following points should be useful to the Examiner.

The most important advance made by the present invention is to improve the packaging and dispensing of paint by providing an alternative to the conventional triple tight seal paint cans.

The triple tight seal is a cause of major inconvenience for painters and decorators because paint tends to fill the groove in the can and because the lid is not retained on the can it tends to cause further inconvenience within the workspace.

The invention achieves this by providing a simple container with an inturned edge to form the rim in conjunction with a retainer ring and lid combination that incorporates a pouring spout if desired. The retainer ring (Closure element) performs the function of the triple tight seal

rim in providing rigidity for the rim opening and a seal for the lid. Additionally it provides an attachment platform that can support a pouring rim the lid and a handle. This is easily achievable in an injection mouldable plastic material and allows a plastic and metal package combination that is less expensive than the triple tight seal conventional can and provides greater functionality.

The amended claims now define

- 1 that the rim is an in-turned edge of the container wall.
- 2 the lid is pivotal and attached to the closure element and can be pivoted 180 degrees.(see figure 7)
- 3 The internal dependent flange (17) on the lid is peripheral and ensures that any liquid in the fully opened lid is returned to the container.

It is often the case that during use paint brushes are placed on the lid of the container (when in the open position as shown in figure 7) and paint will accumulate in the up turned lid. The flange 17 is arranged so that its edge 18 ensures that any paint will return to the container as shown in figure 3.

Now with respect to the cited prior art:

Pool (USA 4240568) provides a closure element that sits on a triple tight seal as shown in figure 9. The handle is provided on the container not the closure element because the attachment of the closure element is not sufficiently strong to take the weight of a filled container. The lid in Pool does not have an internal dependent flange that serves to retain paint when the lid is fully open (see figures 1 and 3 so that when the lid is closed any paint is likely to spill and not be returned to the container.

Kelsey (5269438) does not have a lid attached to the closure element. The lid 4 is described as a plug like lid (col 1 line 68). In this invention it is important that the lid is retained on the closure element attached to the container. The shroud 3 of Kelsey differs from the closure element of this invention in that it is not adapted to seat on a rim of the container. The shroud 3 and the container 2 are both of plastic material and are probably adhered together.

Accordingly, it is applicants position that none of the references taken singly or in any reasonable combination would render the claimed invention obvious.

In view of the above, consideration and allowance are, therefore, respectfully solicited.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

The Director is hereby authorized to charge any fees, or credit any overpayment, associated with this communication, including any extension fees, to CBLH Deposit Account No. 22-0185, under Order No. 21854-00050-US from which the undersigned is authorized to draw.

Dated: May 15, 2008

Respectfully submitted,

Electronic signature: /Morris Liss/

Morris Liss

Registration No.: 24,510

CONNOLLY BOVE LODGE & HUTZ LLP

1875 Eye Street, NW

Suite 1100

Washington, DC 20006

(202) 331-7111

(202) 293-6229 (Fax)

Attorney for Applicant